

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA
CHARLESTON DIVISION

The Sustainability Institute, <i>et al.</i> ,)	Civil Action Number: 2:25-cv-02152-RMG
)	
Plaintiffs,)	
)	
vs.)	
)	
Donald J. Trump, in his official capacity)	
as President of the United States, <i>et al.</i> ,)	
)	
Defendants.)	

**DEFENDANTS' RESPONSE TO PLAINTIFFS' MOTION FOR PRODUCTION OF
DOCUMENTS IN NATIVE FORMAT**

In connection with the hearing on Plaintiffs' Motion for Preliminary Injunction (ECF No. 24), the Court ordered expedited discovery and directed Defendants to file the documents produced on ECF. *See* ECF No. 45 at 4. The Court did not order production of documents in native format. *See generally id.* Thus, Defendants filed the documents on ECF. *See, e.g.*, ECF Nos. 65, 66, 67, 79-91, 95-103, 106-132.

On April 25, 2025, Plaintiffs filed a Motion for Production of Documents in Native Format (the "Motion"), asking the Court to compel Defendants to produce native versions of all documents filed on ECF to date, as well as native versions of all future document productions. *See* ECF No. 145 at 1, 4. In response, after agency review of E-discovery capabilities, Defendants proposed the following two-part resolution.

First, regarding the non-privileged documents produced to date, the United States Department of Energy, the United States Department of Transportation, and the United States Department of Agriculture agree to provide a copy of the documents to Plaintiffs in the standard native file format that the agencies' E-discovery tools allow. Because the United States

Environmental Protection Agency (“EPA”) produced redacted documents and documents that include privileged email attachments, EPA is not able to provide a copy of the documents in native version because those files reportedly would not include the redactions and privileged email attachments apparently cannot be removed from the native production. Nonetheless, regarding the documents produced to date, EPA will agree to provide a load file that will allow Plaintiffs to access metadata.

Second, regarding future productions, the deadline for conducting the Rule 26(f) conference has not arisen. The Court ordered expedited discovery only in connection with the Motion for Preliminary Injunction. As a result, the current Motion is premature in seeking an order regarding future document discovery. Therefore, Defendants recommend that the parties discuss electronic discovery issues during that conference, as provided by the Federal Rules.

While Plaintiffs have not yet had an opportunity to respond to Defendants’ proposal, Defendants respectfully submit that the resolution addresses Plaintiffs’ concern about loading the non-privileged documents already produced into discovery review software. *See* ECF No. 145 at 3. Thus, the proposal moots Plaintiffs’ Motion regarding the non-privileged documents already produced.

Regarding future discovery, because Defendants use a variety of platforms, the parties should discuss “any issues about disclosure, discovery, or preservation of electronically stored information, including the form or forms in which it should be produced” during the Rule 26(f) conference, rather than in response to a premature motion to compel documents. *See* Fed.R.Civ.P. 26(f)(3)(C). Plaintiffs provide no argument or explanation why the standard procedures outlined

in the Federal Rules would be insufficient to address future discovery outside the preliminary injunction context of the expedited discovery ordered by the Court.

Therefore, Defendants respectfully request that the Court deny Plaintiffs' Motion as moot regarding non-privileged documents already produced and deny Plaintiffs' Motion as premature regarding future discovery.

Respectfully submitted,

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